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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,268	04/19/2004	Michel K. Susai	2006579-0472 (CTX-168CN)	9408

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EXAMINER	
TRAN, JIMMY H	

ART UNIT	PAPER NUMBER
2456	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/826,268	SUSAI ET AL.	
	Examiner	Art Unit	
	JIMMY H. TRAN	2456	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 February 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *19 April 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This action is in response to communication(s) filed on 2/6/2006

Claims 1-21 have been examined and are pending with this action.

Priority

Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged.

Specification

Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:
(1) if a machine or apparatus, its organization and operation;
(2) if an article, its method of making;
(3) if a chemical compound, its identity and use;
(4) if a mixture, its ingredients;
(5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

1. **Claim(s) 2-21 is/are rejected under U.S.C. 101 as claiming the same invention as that of claim(s) 1-22 of prior U.S. Patent No. 6,725,272 ('272).** This is a double patenting rejection.

For example:

Claim 2 of present application is a duplicate to claim 1 of '272. Although claim 2 of the present does not include the language "once a connection is established for said client", it is inherent to that a connection is established to be able to estimate a response time.

Claim 3 of present application is a duplicate to claim 3 of '272.

Claim 4 of present application is a duplicate to claim 4 of '272.

Claim 5 of present application is a duplicate to claim 5 of '272.

Claim 6 of present application is a duplicate to claim 6 of '272.

Claim 7 of present application is a duplicate to claim 7 of '272.

Claim 8 of present application is a duplicate to claim 8 of '272.

Claim 9 of present application is a duplicate to claim 9 of '272.

Claim 10 of present application is a duplicate to claim 10 of '272.

Claim 11 of present application is a duplicate to claim 11 of '272.

Claims 12-21 are rejected for the same reasons as set forth in claims 2-11.

This is a double patenting rejection.

Please note: the listing above is not intended to be exhaustive and is provided as exemplary.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. **Claim(s) 2-11 is/are rejected under U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

Claim(s) 2-11 is(are) drawn to a computer program, per se. Computer programs claimed as computer listings, per se, are abstract instructions. Computer programs are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer, which permit the computer program's functionality to be realized. As such, the claim(s) is(are) not directed to one of the statutory categories of invention (See MPEP 2106.01), but is(are) directed to nonstatutory functional descriptive material.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claim(s) 1-7, 11-17, and 21 is/are rejected under 35 U.S.C. 102(e) as being anticipated by Abbott et al. (US 6,314,463 B1, hereafter Abbott).**

Regarding **claim 1**, Abbott discloses a system, comprising:

a server, coupled to the Internet, that has stored thereon information, wherein a client requests said information from said server (see Abbott; fig. 1; col. 4/38-49);

means for estimating a response time to said clients request (see Abbott; fig. 5, col. 14/lines 32-40; the agent can determine response time);

an on-hold server, coupled to the Internet, said server, and said means for determining, that has stored therein further information (see Abbott; fig. 1/item 90; col. 4/38-49; web service system); and

means for placing said client on-hold if said response time is more than a threshold value, whereby a connection is established between said client and said on-hold server when said client is placed on-hold (see Abbott; col. 17/lines 40-49; the manager instructs the interceptor to cease redirection to a particular network address/port endpoint as the client is still connected to the web service system).

Regarding **claim 2**, Abbott discloses an apparatus, comprising:

means for opening a connection between a client and an interface unit (see Abbott; fig. 1/item 120, col. 7/line 50-col. 8/line 30; the interceptor receives request from users and redirects the user's request to web servers);

means for opening a connection between said interface unit and a requested server if no free connection is open between said interface unit and said requested server (see Abbott; fig. 1/item 120, col. 7/line 50-col. 8/line 30; the interceptor receives request from users and redirects the user's request to web servers);

means for estimating a response time of said requested server (see Abbott; fig. 5, col. 14/lines 32-40; the agent can determine response time);

means for putting said client on-hold if said response time is more than a threshold value (see Abbott; col. 17/lines 40-49; the manager instructs the interceptor to cease redirection to a particular network address/port endpoint);

means for determining when said client should be taken off on-hold (see Abbott; col. 17/lines 50-63; the manager determines redirection to a particular network address/port endpoint);

means for allowing said client to access information on said requested server via said connections once said client is taken off on-hold (see Abbott; col. 16/lines 35-47; the manager tracks the status of components to ensure proper operations to ensure service to the client); and

means for closing said connection between said client and said interface unit while keeping open said connection between said interface unit and said requested server (see Abbott; col. 23/lines 22-41; the manager manages connections of components between the requested server and the interface even when the connection from the client has been closed).

Regarding **claim 3**, Abbott discloses the apparatus, wherein said means for opening said connection between said client and said interface unit comprises:

means for receiving a request to open a connection using a network address corresponding to said interface unit or said requested server (see Abbott; Table 3/item 1, col. 13/lines 1-34; the web server endpoints addressing indicating web server processing request); and

means for receiving a request to retrieve data using a path name corresponding to said requested server (see Abbott; table 3/item 8, col. 13/lines 1-34; the web server file system path).

Regarding **claim 4**, Abbott discloses the apparatus, wherein said means for opening said connection between said further client and said interface unit comprises:

means for selecting said requested server as a function of said network address (see Abbott; Table 3/item 1, col. 13/lines 1-34; the web server endpoints addressing indicating web server processing request).

Regarding **claim 5**, Abbott discloses the apparatus, wherein said means for allowing comprises:

means for retrieving said data from said requested server using said path name (see Abbott; table 3/item 8, col. 13/lines 1-34; the web server file system path).

Regarding **claim 6**, Abbott discloses the apparatus, wherein said means for allowing further comprises:

means for sending said data to said client (see Abbott; fig. 1/item 90; col. 4/38-49; web service system).

Regarding **claim 7**, Abbott discloses the apparatus, wherein:

said means for receiving a request to retrieve data comprises

means for receiving a GET segment having sequence and acknowledgment parameters (see Abbott; col. 21/lines 9-25; the console receives events containing information relating to the functionality of the web service system); and

said means for retrieving comprises

means for modifying said parameters to produce a modified GET segment (see Abbott; col. 21/lines 40-51; the console is able to modify the data stored in the managed object database which contains the component data relating to the web service system functionality), and

means for sending said modified GET segment to said requested server (see Abbott; col. 16/line 53-col. 17line 21; the manager uses the modified data stored on the managed object database and applies the information to the web server).

Regarding **claim 11**, Abbott discloses the apparatus, wherein said means for determining when said client should be taken off on-hold comprises:

means for recalculating said response time for said requested server (see Abbott; fig. 5, col. 14/lines 32-40; the agent can determine response time);

means for determining whether said client is next to be serviced by said requested server (see Abbott; fig. 1/item 90; col. 4/38-49; web service system);

means for determining when said client is finished with said on-hold server (see Abbott; fig. 1/item 90; col. 4/38-49; web service system); and

means for taking said client off on-hold based on said means for recalculating, said means for determining whether said client is next to be serviced, and said means for determining when said client is finished (see Abbott; col. 17/lines 50-63; the manager determines redirection to a particular network address/port endpoint).

Regarding **claim(s) 12-17, and 21**, do(es) not teach or further define over the limitation in claim(s) 2-7, and 11 respectively. Therefore claim(s) 12-17 and 21 is/are rejected for the same rationale of rejection as set forth in claim(s) 2-7, and 11.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. **Claim(s) 8-9 and 18-19 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Abbott et al. (US 6,314,463 B1, hereafter Abbott) in view of Flockhart et al. (US 6,820,260 B1, hereafter Flockhart).**

Regarding **claim 8**, Abbott discloses the invention substantially, however Abbot does not explicitly disclose the apparatus, wherein said means for putting said client on-hold if said response time is more than a threshold value comprises:

means for determining a waiting time for said client;

means for determining an on-hold request based on said determined waiting time; and

means for allowing said client to access information on an on-hold server based on said determined on-hold request.

Flockhart disclose the apparatus, wherein said means for putting said client on-hold if said response time is more than a threshold value comprises:

means for determining a waiting time for said client (see Flockhart; fig. 1/item 113, col. 3/lines 25-37; the wait time function estimates a wait time for the client);

means for determining an on-hold request based on said determined waiting time (see Flockhart; fig. 1/item 103; col. 3/lines 49-60; the applet selection functions allows the user to send in a request for an applet); and

means for allowing said client to access information on an on-hold server based on said determined on-hold request (see Flockhart; col. 3/lines 49-60; the applet selection function allows the client to accessing applet from the call center).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Abbott in view of Flockhart in order to determine waiting time, determine wait request, and allow client to access information from the wait server.

One of ordinary skill in the art would be motivated since it provides an additional feature during a wait time to improve on the invention as suggested by Flockhart (see Flockhart; col. 1/lines 32-38).

Regarding **claim 9**, Abbott-Flockhart discloses the apparatus, wherein said means for determining said on-hold request comprises:

means for allowing said client to customize said on-hold request (see Flockhart; fig. 1/item 97, col. 3/lines 49-60; the applet selection functions allows the user to customize one of the applets).

Regarding **claim(s) 18-19**, do(es) not teach or further define over the limitation in claim(s) 8-9 respectively. Therefore claim(s) 18-19 is/are rejected for the same rationale of rejection as set forth in claim(s) 8-9.

5. **Claim(s) 10 and 20 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Abbott et al. (US 6,314,463 B1, hereafter Abbott) in view of Flockhart et al. (US 6,820,260 B1, hereafter Flockhart) and in further view of Official Notice.**

Regarding **claim 10**, Abbott-Flockhart disclose the invention substantially, however Abbott-Flockhart do not explicitly disclose the apparatus, wherein said means for allowing said client to customize comprises:

means for returning to said client a dual framed/multi-window web page, wherein said dual framed/multi-window web page includes a first frame/window and a second frame/window; and

means for allowing said client to select at least one category in said first frame/window thereby configuring the contents of said second frame/window.

Official Notice is taken that the concept and the advantages for selecting and displaying objects in a dual frame/multi-window is well known in the art. It would have been obvious for one of ordinary skill in the art to have enabled the already existing connection for selecting and displaying objects in a dual frame/multi window since it has already been suggested by Flockhart that the applets may contain music or other audio programs, image or moving-video programs, multimedia programs, games, contests, questionnaires, order forms etc. One of ordinary skill in the art would have been motivated by the need to provide customer satisfaction to have provided the data sent to the use on hold with interactive ability, thereby having provided a customer friendly means for choosing the data to access while on hold.

Regarding **claim(s) 20**, do(es) not teach or further define over the limitation in claim(s) 10 respectively. Therefore claim(s) 20 is/are rejected for the same rationale of rejection as set forth in claim(s) 10.

Citation of Pertinent Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Constantini (US 5,506,898) Expected wait-time indication arrangement.

Grabelsky (US 7,453,815) Method and system for monitoring and management of the performance of real-time networks.

Hughes (US 6,493,772) System and method with guaranteed maximum command response time.

Roberts (US 6,295,551) Call center system where users and representatives conduct simultaneous voice and joint browsing sessions.

Gerszberg (US 6,178,446) Method and system for supporting interactive commercials displayed on a display device using a telephone network.

Ludwig (US 5,896,500) System for call request which results in first and second call handle defining call state consisting of active or hold for its respective AV device.

Conclusion

Examiner's note: Examiner has cited particular columns and line numbers and/or paragraphs in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well.

It is respectfully requested from the applicant in preparing responses to fully consider the reference in entirety as potentially teachings all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

For the reason above, claims 1-21 have been rejected and remain pending.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JIMMY H. TRAN whose telephone number is (571) 270-5638. The examiner can normally be reached on 9:00am - 5:00pm Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on (571) 272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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